

STATUS OF CLAIMS

Claims 1-11, 14-17 and 35-36 are pending.

Claims 1-11, 14-17 and 35-36 stand rejected.

Claims 1 and 15 have been amended without prejudice herein.

New Claims 37-40 have been added herein.

REMARKS

Claims 1-8, 10-11, 14-17 and 36 stand rejected under 35 U.S.C. 102(b) as being anticipated by Ota (United States Patent No. 3,668,106). Claim 9 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Ota in view of Check (United States Patent No. 5,467,217). Claim 35 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Ota in view of Iwanaga (United States Patent No. 5,739,946). Applicants respectfully request reconsideration and removal of these rejections for at least the following reasons.

A claim is anticipated pursuant to 35 U.S.C. 102 only if each and every element set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *See, Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)). In other words, in order for a prior art reference to anticipate a claim, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). And, each of the claim elements must be arranged as required by the claim. *See, In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990). Ota fails to teach

Turning first to Claim 1, it recites in part, "a transparent second electrode separated from the first electrode by a space, said space being maintained by a spacer joining said first and second electrodes such that the cells are in fluid communication with one-another." By way of example only, such a configuration

is shown in the cross-section view of Fig. 4 of the subject application. By way of further example, such a configuration is also discussed in the subject application at page 8, in lines 17-22, wherein it recites:

Referring again to FIG. 4, the spacers 13 are sealed to the inner surfaces of the anode and cathode 11, 12 around the perimeter of the display using conventional sealing methods. The spacers 13 have a thickness T which is at least 1 mil thicker than the height H of the cell walls 26 which creates a gap G between the inner surface 17 of the anode 11 and the free edges of the cell walls 26. This gap G permits the electrophoretic fluid 14 to flow into and fill up each cell 25 of the cathode 12 when the EPID 10 is filled with the fluid 14.

Ota fails to teach such a configuration – as it expressly teaches the cells are fluidly sealed and not in fluid communication with one-another.

More particularly, the April 27, 2006 Office action argues Ota teaches spacers 38 and 40 for retaining an electrophoretic fluid 22, where the spacer 38 is slightly taller than the cells enclosing electrophoretic fluid 22. See, 4/27/2006 Office action, par. 3. Regardless of the veracity of this argument, Ota clearly fails to teach that a plurality of cells containing electrophoretic fluid are maintained in fluid communication with one another – as is recited by Claim 1.

In contrast, Ota teaches the opposite; namely, that cells be fluidly isolated from one another. For example, Ota expressly teaches, “[t]he advantages of dividing the suspension layer into a plurality of suspension units are as follows: a uniform display can be produced because flow of the suspension is restricted to the interior of each space.” Col. 10, ll. 22-25.

Accordingly, Applicants respectfully request reconsideration and removal of the rejection of Claim 1 as being anticipated by Ota, at least by reason that Ota fails to teach each of the limitations of Claim 1 – including at least the limitation of, “a transparent second electrode separated from the first electrode by a space, said space being maintained by a spacer joining said first and

second electrodes such that the cells are in fluid communication with one-another.” Applicants also request reconsideration and removal of the rejections of Claims 2-11, 14, 35 and 36 as well, at least by virtue of these claims’ ultimate dependency upon a patentably distinct base Claim 1.

With respect to Claim 15, it analogously recites, inter alia, “a second transparent electrode, separated from said first electrode by a spacer such that the electrophoretic particle-containing cells are in fluid communication with one-another.” Accordingly, Applicants also request reconsideration and removal of the rejection of Claim 15 as being anticipated by Ota for at least the foregoing reasons. Applicants request reconsideration and removal of the rejections of Claims 16 and 17, at least by virtue of these claims’ ultimate dependency upon a patentably distinct base Claim 15.

New Claims 37-40 have been added herein. New Claims 37 and 39 recite a plurality of walls extending substantially perpendicularly to the first electrode. By way of example only, support for new Claims 37 and 39 may be seen in Fig. 4 of the subject application. Further support may be found in the specification as originally filed at page 6, lines 21-23 (*“Each cell 25 of the array includes one or more side walls 26 (four side walls 26 are illustrated in the embodiment of Fig. 3A) which project generally perpendicularly from the inner surface 23 of the cathode 12.”*). New Claims 38 and 40 recite that the walls are shorter than the spacers. Support for new Claims 38 and 40 may be seen in Fig. 4 of the subject application. Furthermore, such a configuration is discussed in the subject application at page 8, in lines 17-22, wherein it recites:

The spacers 13 have a thickness T which is at least 1 mil thicker than the height H of the cell walls 26 which creates a gap G between the inner surface 17 of the anode 11 and the free edges of the cell walls 26.

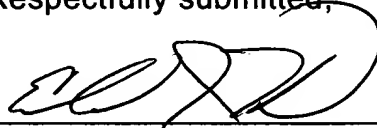
Accordingly, no new matter has been added. Applicant also submits Claims 37-40 are distinguishable from the cited art, at least by virtue of their ultimate dependency upon patentably distinct base Claim 1 or base Claim 15.

CONCLUSION

In view of the foregoing, Applicants believe they have addressed all outstanding grounds raised in the present Office action, and respectfully submit the present case is in condition for allowance, early notification of which is earnestly solicited.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicants' undersigned attorney at his number listed below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edward J. Howard', written over a horizontal line.

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Dated: July 26, 2006